THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P.No.27161 of 1997

ORAL ORDER:

This writ petition is filed seeking Certiorari to call for the records relating to award passed by the Labour Court in I.D.No.4 of 1995 dated 2.9.1996 insofar as denying the past service of the petitioner and other attendant benefits, with a consequential direction to the respondents to reinstate the petitioner with continuity of service and other attendant benefits including back wages etc.

It appears, when the petitioner was driving the Bus No.AAZ-7649 on 7.1.1994 on the route from Maruti Nagar to Indira Nagar (70-B) and when the Bus reached near Almas Hotel, it met with an accident and in the said accident, the cyclist, who was a mentally derailed person coming in the opposite direction, died. A criminal case in F.I.R.No.2 of 1994 dated 7.1.1994 was booked with Shamsheergunj Police Station. Insofar as domestic enquiry is concerned, the petitioner was charge sheeted and after conducting a detailed enquiry into the matter, he was removed from service. Aggrieved by the same, petitioner raised a dispute under Section 2A(2) of the Industrial Disputes Act, 1947 before the Labour Court-I, Hyderabad. Initially, the Labour Court found that the enquiry conducted against the workman was invalid and thereafter, permitted both the parties to adduce evidence and on the basis of the evidence, the Labour Court came to the conclusion that;

> "In view of the legal position and from a consideration of the material placed, I am of the view that it would be the case of miscarriage of justice if the petitioner is found responsible and guilty for the accident. Consequently, I am of the view that there is no other go but to accept the request of the petitioner, allow the petition and set aside the order, disagreeing with the opinion and conclusion of the Enquiry Officer".

and while setting aside the removal order, the Labour Court directed the respondent-management to reinstate the petitioner. It was further held that previous service rendered by the petitioner shall be notionally taken into consideration, but not either for claiming back wages, or any attendant benefits, or for seniority and for all such purposes, he shall be treated as a 'fresh appointee'.

The learned counsel for petitioner contended that though the Labour Court held that it would be miscarriage of justice to hold the petitioner guilty of charges', denied continuity of service for the purpose of seniority and other attendant benefits, which is arbitrary and illegal. The learned counsel further contends that the criminal case launched against the petitioner was enquired into and found to be a 'mistake of fact' and therefore, the same was closed.

I have given my earnest consideration to the respective submissions made by the learned counsel on either side and perused the impugned order and other material made available on record.

I am in full agreement with the submissions made by the learned counsel for petitioner that the Labour Court having held that it would be miscarriage of justice to hold the petitioner guilty of charges, ought to have granted reinstatement of the petitioner with continuity of service and other attendant benefits by exercising powers under Section 11A of the Industrial Disputes Act.

In the peculiar facts and circumstances of the case, I am of the opinion that the award of the Labour Court is liable to be modified to the following effect:

> "The respondents are directed to reinstate the petitioner into service, with continuity of service and other attendant benefits for the purpose of seniority etc. However, monetary benefits shall be extended to the petitioner only from January 2007".

The writ petition is allowed to the extent indicated above. No order as to costs.

_____

C.V.RAMULU, J

Date: 21.2.2007

DA

THE HON'BLE SRI JUSTICE C.V.RAMULU

21.2.2007

**IN THE HIGH COURT OF JUDICATURE OF ANDHRA PRADESH
AT HYDERABAD**

THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P.No.27161 of 1997

Date: 21st February, 2006

Between:

M.A.Khader

.. Petitioner

And

Presiding Officer,
Labour Court-I, Andhra Pradesh,
Hyderabad& another.

.. Respondents